



# Keith E. McCullough

## Shareholder

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## Practices & Industries

- Government & Regulatory
- Infrastructure & Environmental
- Energy, Oil & Gas
- Litigation

## Overview

Keith E. McCullough is a Shareholder and Chair of the Real Property, Environmental and Natural Resources practice group at AlvaradoSmith. He has extensive experience in bench and jury trials, complex binding and non-binding arbitrations, mediations and appellate work in State and Federal courts, with an emphasis in Eminent Domain, Natural Resources and Environmental Law, Construction Law and Litigation. Keith practices Eminent Domain and Inverse Condemnation for public agencies, property owners, and public utilities. He is a Martindale-Hubbell AV rated lawyer (a peer-review rating that designates the highest level of competence and ethics).

Keith's real property, natural resource and environmental litigation experience also includes easements, rights of way, land use and zoning restrictions, complex title issues, major public improvement projects, CEQA/NEPA, water rights and drainage, land subsidence, renewable energy projects, subsurface mineral and gas rights, public construction and public law and compliance issues. He has been lead eminent domain counsel in some of the highest-valued single parcel acquisitions in California history. He has been retained as a litigation expert, mediator and referee addressing eminent domain issues.

Keith has been the featured speaker or panelist for organizations such as the International Right of Way Association, Association of California Water Agencies, Appraisal Institute, ABA Real Property Section – Environmental Subcommittee, California Special Districts Association, West Coast Landmen's Association, Orange County City Attorneys Association, and Lorman Educational Seminars. He has authored several articles addressing issues in his areas of practice for the International Right of Way Association, ABA Real Property Section – Environmental Subcommittee, and State Bar of California – Public Law Journal.

## Memberships

- International Right of Way Association, Orange County Chapter (President, (2003) Newsletter Editor (1999-2000)) and Inland Empire Chapter
- California Condemnation Attorneys Group
- Orange County City Attorneys Association
- State Bar of California (Member, Real Property (Eminent Domain Subcommittee, Environmental and Litigation Sections)
- Orange County Bar Association (Member, Business Litigation and Real Property Sections)
- Riverside County Bar Association – Barristers (President, 1992-93)
- Orange County Youth Sports Foundation (Veterans Committee Chair, 2008 – present, President, 2005-06; Secretary 2001-04, Board of Directors, 1999 to present)

## Education / Admissions

### Education:

- J.D., University of Wisconsin, 1989
- B.A. in Political Science, Brigham Young University, 1986
- Center, BYU National Championship (1984) Football Team (1980-1985)

### Bar Admissions:

State Bar of California

## Accolades

- Martindale-Hubbell AV® Preeminent™ Rated
- All District Seven Academic Athlete; Finalist, Academic All-American

## Matters

- Lead Counsel in several jury trials in eminent domain and inverse condemnation to verdict; numerous bench trials and judicial determinations addressing right to take issues, precondemnation damages, CEQA compliance and project designation, lost business goodwill, competing public use issues, and the Polanco Act in eminent domain.
- Lead Counsel in several CEQA and Public Records Act writ petitions prosecuted to favorable resolution in Superior and Appellate Courts throughout California.
- Prosecuted and won a favorable binding arbitration decision implementing the components of a wind farm renewable energy repower project with related Interconnection Agreement and Power Purchase Agreement before the American Arbitration Association.
- Conducted and won a three month bench and jury trial characterizing drainage water and storm water discharge through coastal properties in southern California.

- Conducted and won a three week jury trial addressing claims for wrongful termination of a public works construction contract and bond impairment involving “essential facilities” and critical emergency response communications.
- Representation of private and public entities in soil and groundwater cleanups dealing with a full spectrum of sites including Brownfields, school sites, Underground Storage Tanks, well sites, and actions invoking the Polanco Act.
- Planning, review and implementation of a major off-stream water reservoir in southern California, including NEPA/CEQA review, environmental permitting, land acquisition (including eminent domain), construction implementation and litigation claims resolution.
- Adjudication of groundwater rights in a critically over-drafted groundwater basin in central California in state court.
- Implementation of treatment and cost recovery actions for municipal wells impacted by toxic groundwater plumes in state and federal courts.
- Water rights opinions and interpretation and implementation of water contracts for the appropriation and delivery of water from a major river system to numerous irrigation districts, mutual water companies and municipalities in central California.
- Interpretation of Fish and Game Code section 5937, Public Trust Doctrine impacts, and the application of the Endangered Species Act in the context of water releases from major reservoir projects and effects on downstream biological resources.
- Representation before the State Water Resources Control Board and Regional Boards on water appropriation permits and licenses, water rights and water quality matters, including stream systems previously designated as “fully appropriated.”
- Lead counsel in handling litigated claims of changed circumstances, project delay and lost profits in a major storm water, sewer and roadway rehabilitation project in Riverside County, California.
- Lead project implementation counsel for the State Water Project – East Branch Extension. The project included planning for and acquiring 131 fee parcels and easements for a 60 inch welded steel water line, and addressing environmental mitigation and construction delay claims associated with the project.
- Lead counsel in project implementation and land acquisition necessary for the \$50 million Arlington Avenue railroad grade separation project in Riverside. Tried and defeated neighboring property owner claims for damages associated with project implementation and alleged contaminated spoil dirt disposal.

## Other Publications

### **Publications:**

Keith has authored several articles addressing issues in his areas of practice for the International Right of Way Association, ABA Real Property Section – Environmental Subcommittee, and State Bar of California – Public Law Journal.

### **Public Speaking:**

Keith has been the featured speaker or panelist for organizations such as the International Right of Way Association, Association of California Water Agencies, Appraisal Institute, ABA Real Property Section – Environmental

Subcommittee, California Special Districts Association, West Coast Landmens Association, Orange County City Attorneys Association, and Lorman Educational Seminars.

## Recent News

- Oct. 29, 2019 – IRWA's Fall Seminar 2020 and Beyond: How Right of Way will shape L.A.'s Future